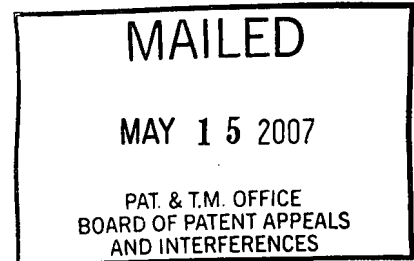


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JIAPING SONG

Application No. 10/092,199



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on January 9, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On August 1, 2006, the examiner mailed an examiner's answer to the appellant. The examiner's answer contains a 35 USC 112, 2nd paragraph rejection over claims 4 and 10, which is a new Ground of Rejection, as permitted by 37 C.F.R. § 41.39(a)(2). However, a review of the file reveals that the examiner's answer is not in compliance with the new rules set forth in § 41.39(a)(1) which states:

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The primary examiner may, within such time as may be directed by the Director, furnish a written answer to the appeal brief including such explanation of the intention claimed and of the references relied upon and grounds of rejection as may be necessary, supplying a copy to appellant.

Before further review of this application, the Technology Center (TC) Director or their designate must provide a signature indicating acknowledgment and approval of the new grounds of rejection.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) TC Director's or designator's signature in the examiner's answer filed August 1, 2006 for acknowledgment and approval of the new grounds of rejection; 2) notification to appellant of such action; and 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Appeal Administrator
(571)272-9797

PJN/tdl

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